

## FINDING OF EMERGENCY

The Secretary of the California Department of Food and Agriculture finds that an emergency exists, and that the foregoing regulation, or amendment to the regulation, is necessary for the immediate preservation of the public peace, health and safety, or general welfare.

### Specific Facts Showing the Need for Immediate Action

Mediterranean fruit fly is a destructive insect pest which attacks the fruit of various plants including over 150 crops such as citrus, tomatoes, grapes, avocados, peaches, and cherries.

The female punctures host fruit to lay eggs which develop into larvae. The punctures admit decay organisms that may cause tissue breakdown. Larval feeding causes breakdown of fruit tissue. Fruits with egg punctures and larval feeding are generally unfit for human consumption. Pupae may be found in fruit, but normally are found in soil.

On October 15, 2005, one sexually mature mated female Mediterranean fruit fly was taken from a trap and determined to be mated and filled with eggs on October 18, 2005. The detection of a mated female adult Mediterranean fruit fly with eggs is indicative of another epicenter of an incipient infestation of the fly in the Rancho Cucamonga area of San Bernardino County. Therefore, it is necessary to expand the existing regulated area in 3406(b) to encompass this new epicenter and the resulting 4-1/2 mile buffer area surrounding this new epicenter.

As a result of trapping adult female flies on September 27, 2005, the Department made an emergency amendment, effective October 7, 2005, to Section 3406(b) which added approximately 72 square miles surrounding the Rancho Cucamonga area of San Bernardino County to the regulation.

Subsequently, additional adult female flies were taken from traps on October 7 and 8, 2005, and an emergency amendment to the regulation, effective on October 17, 2005, expanded the regulated area surrounding Rancho Cucamonga by 13 square miles.

If the fly were allowed to spread and become established in host fruit production areas, California's agricultural industry would suffer losses due to decreased production of marketable fruit, increased pesticide use, and loss of markets if other states or countries enacted quarantines against California products.

This proposed emergency amendment will add approximately 17 square miles to the existing area (approximately 85 square miles) under quarantine that surrounds the Mediterranean fruit fly infestation in the Rancho Cucamonga area of San Bernardino County. This proposed amendment will result in approximately 102 square miles as being that area surrounding Rancho Cucamonga which will be regulated under Section 3406(b). To prevent artificial spread of the fly to noninfested areas to protect California's agricultural industry, it is necessary immediately to regulate movement of hosts which can carry the fly within and from the infested area and surrounding buffer zone. Therefore, it is necessary to amend Section 3406(b) on an emergency basis.

The proposed expansion of the quarantine area for Rancho Cucamonga includes three sites as the epicenter and a buffer zone which extends approximately 4-1/2 miles in each direction from each epicenter. A buffer zone is necessary because the fly can spread naturally (as well as being spread artificially in infested hosts). The proposed boundary line was drawn jointly by the United States Department of Agriculture, the California Department of Food and Agriculture, and the San Bernardino County Agricultural Commissioner. The proposed quarantine area is considered the minimum area around the epicenter sites which should be regulated to prevent artificial spread of Mediterranean fruit fly to noninfested areas.

The Department is also making a nonsubstantial change to Section 3604(b)(2), correcting the spelling of "Alamden" to "Almaden."

#### Authority and Reference Citations

Authority: Sections 407 and 5301, 5302 and 5322, Food and Agricultural Code.

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#### Informative Digest

Existing law obligates the Department of Food and Agriculture to protect the agricultural industry of California and prevent the spread of injurious pests (Food and Agricultural Code, Sections 401 and 403). Existing law provides that the Secretary may establish, maintain, and enforce such quarantine regulations as he deems necessary to circumscribe and exterminate or prevent the spread of pests to protect California's agricultural industry.

#### Section 3406. Mediterranean Fruit Fly Interior Quarantine.

This amendment will add approximately 17 square miles to the existing 85 square miles of the regulated area for Mediterranean fruit fly that surrounds the Rancho Cucamonga area of San Bernardino County. The effect of the amendment is to provide authority for the State to regulate movement of hosts and possible carriers of Mediterranean fruit fly within and from the expanded area under quarantine to prevent artificial spread of the fly to noninfested areas to protect California's agricultural industry.

#### Mandate on Local Agencies or School Districts

The Department of Food and Agriculture has determined that Section 3406 does not impose a mandate on local agencies or school districts, except that an agricultural commissioner of a county under quarantine has a duty to enforce it. No reimbursement is required under Section 17561 of the Government Code because the San Bernardino County Agricultural Commissioner requested the changes in the regulation.

#### Cost Estimate

The Department also has determined that no costs or savings to any state agency, no nondiscretionary costs or savings to local agencies or school districts, no reimbursable costs or savings to local agencies or school districts under Section 17561 of the Government Code, and no costs or savings in federal funding to the State will result from the proposed action.